

MAIL STOP APPEAL BRIEF- PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application of John P. Blasko et al

Conf. No.: 6850 : Group Art Unit: 3622
Appln. No.: 09/742,527 : Examiner: RETTA, Yehdega
Filing Date: 21 DECEMBER 2000 : Attorney Docket No.: T721-14
Title: System and method for automatically managing avail inventory data and avail pricing

**APPELLANTS' BRIEF IN SUPPORT OF THE APPEAL TO THE BOARD OF
PATENT APPEALS AND INTERFERENCES**

In response to the Final Rejection dated May 3, 2007, the Advisory Action dated August 17, 2007, and the Notice of Pre-Appeal Brief Review dated October 11, 2007, and further to the Notice of Appeal and Request for Pre-Appeal Brief Conference filed on August 31, 2007, Applicants hereby submit an Appeal Brief in accordance with 37 C.F.R. §41.37 for the above-referenced application.

This paper is being timely submitted by virtue of the accompanying Petition for Extension of Time (one-month), which extends the period available for reply through and including December 11, 2007.

(A) REAL PARTY IN INTEREST

The real party in interest is Prime Research Alliance E., Inc., the Assignee of record, which is a wholly owned subsidiary of a privately-owned, non-publicly traded company.

(B) RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, judicial proceedings or interferences known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

(C) **STATUS OF CLAIMS**

Claims 22-84 and 114 are canceled.

Claims 1-21 and 85-113 are pending, rejected and are appealed.

(D) STATUS OF AMENDMENTS

Claim 10 was amended in the Amendment After Final, filed July 26, 2007, in order to correct a syntax error. The Examiner has noted, in the Advisory Action, that this amendment will be entered.

Claim 114 was cancelled in the Amendment After Final, filed July 26, 2007. The Examiner has noted, in the Advisory Action, that this amendment will be entered.

(E) **SUMMARY OF CLAIMED SUBJECT MATTER**

The currently pending independent claims in this application are claims 1, 88, 101, 105. A concise explanation of each independent claim, with reference to the specification follows below.

Independent claim 1 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising the steps of:

correlating available addressable units of the communications network with an avail inventory; and

generating a proposed price for purchase of at least one avail based on results of the correlating step.

With respect to independent claim 1, the claimed subject matter relates to a method for managing avail inventory data of media programming streams for a communications network (see page 5, lines 9-11). The method includes correlating available addressable units of the communications network with an avail inventory (see page 6, lines 9-22). A proposed price is generated for the purchase of at least one avail based on the correlating (see page 6, lines 9-22).

Independent claim 88 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

(a) receiving a market segment selection from a user;

(b) obtaining a record of segment specific addressable units available to said user, wherein said segment specific addressable units are characterized as belonging to said selected market segment;

(c) obtaining an inventory of avails corresponding to said segment specific addressable units; and

(d) generating a proposed price for avails in said inventory of avails.

The subject matter of independent claim 88 is similar to that of independent claim 1 described above. In claim 88, a market segment selection is received from a user (page 6, lines 9-12). A record of segment specific addressable units and an inventory of corresponding avails are obtained that correspond to the market segment selection (page 6, lines 9-22). Proposed prices are generated for the avails (page 6, lines 13-16).

Independent claim 101 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

- (a) receiving a programming selection from a user;
- (b) obtaining an inventory of avails corresponding to said programming selection;
- (c) obtaining a listing of addressable units available to said user for said avails corresponding to said program selection; and
- (d) generating a price for said avails corresponding to said program selection stored in said inventory of avails.

The subject matter of independent claim 101 is similar to that of independent claim 88 described above. In claim 101, a programming selection is received from a user (page 6, lines 9-12). An inventory of avails is obtained corresponding to the programming selection and addressable units corresponding to the programming selection are obtained (page 6, lines 9-22). Prices are generating for the avails corresponding to the program selection stored in the inventory of avails (page 6, lines 13-16).

Independent claim 105 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

- (a) receiving a correlation selection from a user, wherein said correlation selection indicates the preference of said user to be presented with avails that correspond to said correlation selection;
- (b) obtaining an inventory of avails corresponding to said correlation selection;

(c) obtaining a listing of addressable units available to said user for said inventory of avails corresponding to said correlation selection;

(d) generating a proposed price for said avails corresponding to said correlation selection stored in said inventory of avails.

The subject matter of independent claim 105 is similar to that of independent claim 88 described above. In claim 105, a correlation selection is received from a user (page 6, lines 9-12). An inventory of avails is obtained corresponding to the programming selection and addressable units corresponding to the programming selection are obtained (page 6, lines 9-22). Prices are generating for the avails corresponding to the program selection stored in the inventory of avails (page 6, lines 13-16).

(F) **GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

The following grounds of rejection are presented for review in this appeal:

1. Whether claims 1-4, 6-13, 16-21, and 85-113 are unpatentable under 35 U.S.C. §102(e) over U.S. Patent No. 6,463,585 to Hendricks *et al.* (“Hendricks”).
2. Whether claims 5, 14, and 15 are unpatentable under 35 U.S.C. §103(a) unpatentable over Hendricks in view of U.S. Patent No. 6,424,998 to Hunter (“Hunter”).

(G) **ARGUMENT**

(1) Claim Rejection under § 102(e) over Hendricks

The Examiner has rejected claims 1-4, 6-13, 16-21, 27 and 85-113 under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent No. 6,463,585 to Hendricks *et al.* (“Hendricks”). Since Hendricks does not disclose all features of the claims, this rejection is in error.

(a) Claims 1-4, 6-9, 11-13, 16-21, 27

For a rejection under § 102(e) to be proper, a reference must disclose, either explicitly or inherently, each and every element of the claimed invention. Applicants respectfully submits that Hendricks does not disclose each and every element recited in independent claim 1.

Independent claim 1 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising the steps of:

correlating available addressable units of the communications network with an avail inventory; and

generating a proposed price for purchase of at least one avail based on results of the correlating step.

Hendricks does not disclose “correlating available addressable units of the communications network with an avail inventory.” Hendricks does not teach comparing an inventory of avails to the available addressable units. At best, Hendricks teaches matching specific advertisements with television terminals. This is not the same as correlating an available ad slot (avail) with an addressable unit.

Furthermore, Hendricks does not disclose the generation of a proposed price for purchase of at least one avail based on the correlation of an avail inventory and available addressable units. As recited in claim 1, the proposed price is based on the correlating of avails and addressable units. For at least these reasons, and in view of the below discussion with respect to

the difference between an avail and a spot, independent claim 1 is believed to be patentable over Hendricks.

i. “avails” vs. “advertisement spots”

In the Examiner’s Advisory Action, the fundamental misunderstanding is presented at the forefront of the rejection: the Examiner asserts that, “Regarding claims 1, 85-87, Hendricks teaches correlating available addressable units of a communication network with avails (advertising opportunities or slots) (see fig. 4, col. 4 line 54 to col. 5 lines 51)...” The impreciseness of the Examiner’s reference to Hendricks, exhibits the specious nature of the rejection.

Perhaps most importantly, the Examiner continues to mistakenly equate the “avails” recited in Applicant’s claims with the “advertisement spots,” or an actual advertisement itself, described in Hendricks. The Examiner’s rejection rests on the premise, in the words of the Examiner, that Hendricks teaches “correlating the received segment with the stored addressable unit data and automatically identifying the available addressable units to be correlated with the avail (advertisement spots).” (Final Office Action, Page 8). This is incorrect since the Examiner juxtaposes avails and advertisement spots. Applicants respectfully submit that this is the origin of the Examiner’s primary misunderstanding of the claimed invention.

Despite the extensive explanations to correct the Examiner’s interpretation of Hendricks, the Examiner has refused to accept the clear and plain meaning of Hendricks’ teachings. The Examiner cites “fig. 4” of Hendricks as “proof” of “correlating available addressable units of the communications network with an avail inventory...” Applicants are unclear on how Fig. 4 shows anything as alleged by the Examiner. Moreover, Fig. 4 of Hendricks seems entirely irrelevant to proving the specific teachings of Hendricks as they relate to claim 1.

Furthermore, the entire column cited by the Examiner (col. 4 line 54 to col. 5 lines 51) fails to disclose “correlating available addressable units of the communications network with an avail inventory.” Rather, this passage describes “managing the program and feeder

channels,” determining “television terminal groups,” assigning groups to television terminals, and managing feeder channels. At best, this passage can be described as determining how to assign feeder channels for program breaks and assigning television terminals to groups. Simply put, neither passage of Hendricks discloses “correlating available addressable units of the communications network with an avail inventory.”

The Examiner points out that Applicants’ specification discloses that “advertisement spots” are equated with “**avails**.” Therefore the Examiner contends that since Hendricks teaches selecting “*spots*” for “**program breaks**” Hendricks thus teaches “correlating available addressable units of the communications network with an avail inventory.”

The Examiner’s language, “the avail (advertisement spots)”, suggests that avails are equivalent to advertisement spots. In Hendricks, however, a “spot” is not an avail and cannot be equated with an avail.

Contrary to the Examiner’s methodology, the examination of a patent application is not simply an exercise in word matching. As is well established an applicant may be his own lexicographer. It is clear that when using the terms “avails,” “advertisement spots,” or “time slots,” Applicants are referring to the space during which advertisements are placed. In the present application, an avail, ad slot, or time slot is not the advertisements themselves (see, for example, page 1, lines 19-25 and page 2, lines 2-4). As pointed out in the Response After Final, Hendricks describes “advertisement spots” as the advertisements themselves and not the slots into which the advertisements are placed. Hendricks teaches that, “once specific spots are selected for each program break...” (column 6, line 1) making it clear that, in the disclosure of Hendricks, spots are ads that are placed into program breaks. In contrast, in Applicants’ disclosure, avails are where advertisements are placed. Therefore, the matching of “advertisement spot” in Hendricks to “advertisement spots” in Applicants’ disclosure and claimed invention is immaterial in light of the clearly denoted meanings in the respective disclosures and/or claims.

It is clear from the plain language of Hendricks that in Hendricks’ system avails are not “advertisement spots”. For instance, Hendricks explains that, “Once specific spots are selected for each program break...,” (column 6, line 1), and that, “each program break may contain one or more “pods” during which a “commercial spot” or targeted advertisement may be aired,” (column 5, lines 33-35). Thus, it is clear that Hendricks selects specific “spots” (or

advertisements) to place in “program breaks” or “pods.” Note that “program breaks” and “pods” are distinct from “spots” and “advertisements”. In Hendricks, a program break is where advertisements are placed. In Hendricks, spot or advertisement is placed into a program break or avail.

Furthermore, the meaning of an advertisement “spot” as used in Hendricks is consistent with its usage in advertising generally. That is, a “spot” would be understood by those skilled in the art to be an advertisement and not a program break or avail. Similarly, an “avail” as described in the present application and recited in the present claims is also consistent with terminology used in the art, and would be readily understood to be a program break or a space into which advertisements or spots are placed.

Accordingly, Applicants respectfully submit that one skilled in the art would realize that an avail cannot be equated with a “spot” or an advertisement, since a “spot” or advertisement is not a time slot in a channel. “Spots” in Hendricks are actual advertisements and “breaks” are places to insert the “spot.” As such, Applicants believe that the Examiner’s reading of Hendricks is simply incorrect.

ii. “correlating available addressable units of the communications network with an avail inventory.”

Much of the disagreement over the patentability of the present claims is based on the Examiner’s interpretation of Hendricks. The Examiner relies on a portion of the text of Hendricks (column 4, line 54 to column 5, line 51) to support the contention that Hendricks teaches “correlating available addressable units of a communication network with avails (advertising opportunities or slots)” (Final Rejection page 3). However, no such teaching exists in this or any other portion of Hendricks. Although, Hendricks does teach selecting advertisements for display at television terminals, no connection is made between television terminals and avails. According to the Examiner’s notation, this conclusion is based on (col. 21, lines 19-44, col. 68, lines 48-60, col. 70, line 40 to col. 71, line 45).

The first cited-to portion of Hendricks describes the EIS (Executive Information System). The EIS allows for “real-time evaluation of current product positioning.” According to Hendricks, “product refers to programs, events or services” (column 21, lines

17-18). There is no disclosure in this section of “correlating available addressable units of the communications network with an avail inventory.”

The second portion cited to by the Examiner refers to the “Alternative Advertisement Targeting Routine.” According to Hendricks, this routine packages commercials geared towards particular viewers. Note that it is advertisements -not avails- that are geared to viewers. This section also contains reference to an “Account/Billing Routine.” Clearly this routine is for billing viewers, not those who might purchase avails.

The final section cited by the Examiner describes using correlation algorithms to select a set of the most heavily weighted advertisements for transmission to subscribers or sets of subscribers. The Examiner may contend that this translates to correlating advertisements with television terminals; however, it does not equate to correlating addressable units with avails, since avails and advertisements are different (as discussed above). As advertisements are delivered to the subscribers, the “account and billing database” is updated based on the ads that are sent. The update of the “account and billing database” has no relation to a correlation of avails and addressable units. Therefore, Hendricks does not teach “correlating available addressable units of the communications network with an avail inventory.”

ii. “generating a proposed price”

Although Hendricks may charge different rates to different advertisers, such rates, even if determined before the scheduling occurs, are not for specific avails corresponding to particular addressable units – they are for displaying advertisements in general. Thus, Hendricks does not teach a system that “generates a price before selecting advertisement,” for at least one avail as the Examiner argues (on page 4 of the Office Action). This is because the price in Hendricks is not associated with any avail, but is instead associated, as the Examiner correctly points out with different advertisers (“rate charged to different advertisers” (Office Action, page 9)). Thus, Hendricks simply does not identify and price particular avails corresponding to addressable units that may be purchased by a user.

Hendricks teaches the determining of “spots” to be transmitted to television terminals, primarily based on demographics (column 6, lines 51-67). Hendricks describes an embodiment of this system as a “spot placement engine.” If the “spot placement engine” was concerned with correlating “breaks” with television terminals, then Hendricks likely would not have called it a “spot placement engine.” In fact it is clear from Hendricks’ description that the “spot placement engine” is concerned with placing ads or “spots”, and does not correlate programming breaks with television terminals. Ultimately, if anything, Hendricks coordinates “spots” or ads with television terminals and not programming breaks or avails with television terminals. Since Hendricks does not teach “correlating available addressable units of the communications network with an avail inventory,” or “generating a proposed price,” independent claim 1 is patentable over Hendricks. Dependent claims 2-4, 6-9, 11-13, 16-21, 27, and 87 are patentable at least by their dependency on claim 1.

(b) Claim 10

Dependent claim 10 is patentable over Hendricks at least by virtue of its dependence on independent claim 1, as shown above. Additionally, dependent claim 10 recites “wherein a subset of the available addressable units are selected by the user and a subset of the available avails are selected by the user, whereby the price-setting parameters are selected.” Nowhere in Hendricks is a user enabled to select a subset of the avails. Stated differently, the act of an advertiser providing an indication of the target group for an advertisement as taught in Hendricks is not the same as allowing a user to affirmatively select subsets of avails and subsets of addressable units. Therefore, dependent claim 10 offers additional patentable aspects and is believed to be allowable over Hendricks.

(c) Claim 85

Dependent claim 85 is patentable over Hendricks at least by virtue of its dependence on independent claim 1, as shown above. Additionally, dependent claim 85 recites “wherein a user selects at least one avail for purchase.” Hendricks simply does not allow a user to make an affirmative selection of avails. Hendricks only selects advertisements in an automated fashion to

fill breaks based on a matching scheme. Note that Hendricks teaches neither the selecting of avails nor the ability of a user to do so.

As noted in Applicants' Response, page 19, filed February 5, 2007:

Further, dependent claim 85 recites that "a user selects at least one avail for purchase." Hendricks clearly does not teach this aspect of claim 85. The Examiner argues that because Hendricks teaches "that the frequency of display may be based on various factors, including the number of requests and cost paid by respective advertisers to have the commercial displayed," this is somehow is equivalent to allowing a user to select at least one avail for purchase. Making requests for the display of advertisements is simply not the same as a user selecting an avail for purchase. Hendricks simply allows advertisers to request that advertisements be displayed and does not allow them to select a particular avail for the display of advertisements. Applicants note that the Examiner has seemingly failed to address a user selecting an avail for purchase as recited in dependent claim 85.

Applicants believe that the Examiner has not specifically addressed the patentability of claim 85, despite the urging of Applicants. The Examiner wrote that "Examiner would like to point out that the claim does not recite that the advertiser is given the option to select particular avails (advertising opportunities or slots)." Applicants stipulate that claim 1 does not affirmatively recite this aspect. However, claim 85 recites "[t]he method of claim 1, wherein a user selects at least one avail for purchase." Therefore, dependent claim 85 offers additional patentable aspects and is allowable over Hendricks.

(c) Claim 86

Dependent claim 86 is patentable over Hendricks at least by virtue of its dependence on independent claim 1, as shown above. Additionally, dependent claim 86 recites "receiving a purchase request from a user for the purchase of said at least one avail." Hendricks simply does not allow a user to make such a purchase request. Hendricks only selects advertisements in an automated fashion to fill breaks based on a matching scheme and thereby are purchased by the advertiser. Therefore, dependent claim 85 offers additional patentable aspects and is allowable over Hendricks.

(d) Claims 88-94, 96-98, and 100

Applicants respectfully submits that Hendricks does not disclose each and every element recited in independent claim 88.

Independent claim 88 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

- (a) receiving a market segment selection from a user;
- (b) obtaining a record of segment specific addressable units available to said user, wherein said segment specific addressable units are characterized as belonging to said selected market segment;
- (c) obtaining an inventory of avails corresponding to said segment specific addressable units; and
- (d) generating a proposed price for avails in said inventory of avails.

In rejecting independent claim 88, the Examiner again refuses to acknowledge that Hendricks is concerned with matching ads to television terminals in order to target ads, whereas claim 88 recites obtaining avails corresponding to addressable units. The Examiner cites column 31, lines 1-6 of Hendricks as teaching “receiving a market segment selection from a user.” However, this section of Hendricks does not indicate “receiving a market segment selection from a user” as recited in claim 88. Instead this section describes how advertisers indicate to whom their advertisements are targeted. The advertisers cannot affirmatively indicate a market segment. The advertisers in Hendricks can only indicate the market segment to which their ad is oriented. Hendricks then performs matching of ads with television terminals in an automated fashion, without user input. Ultimately, the user is not allowed to enter a market segment selection as recited in claim 88. Therefore, Hendricks does not teach this aspect of claim 88.

Furthermore, Hendricks does not obtain an inventory of avails corresponding to segment specific addressable units. Hendricks never produces, obtains, or retrieves an inventory of avails. It is unclear what portion of Hendricks the Examiner is pointing to in order to teach this aspect of claim 88. It is equally unclear how any of the cited portions can teach this aspect of claim 88. Applicants assume the Examiner is referring to the functions of the “break management engine” and the “spot placement engine” in Hendricks. However, neither of these engines obtains an inventory of avails corresponding to segment specific addressable units. The break management engine in Hendricks assigns feeder channels to program breaks and/or individual advertisements to pods (column 31, lines 6-16). The related “switching plan” can require the switching of individual set top terminals (column 31, lines 22-25). “The spot placement engine 307 determines which specific advertisements are to be placed in each available open pod of the program break.” (column 31, lines 27-30). None of these systems obtain an inventory of avails corresponding to segment specific addressable units. Instead, they determine what ads to put in breaks or pods. Therefore, Hendricks does not teach this aspect of claim 88.

Similarly, as discussed above in respect to claim 1, Hendricks does not address aspect (d) of claim 88, “generating a proposed price...” Accordingly, independent claim 88 is allowable over Hendricks. Dependent claims 89-94, 96-98, and 100 are patentable at least by their dependency on claim 88.

(e) Claim 95

Dependent claim 95 is patentable over Hendricks at least by virtue of its dependence on independent claim 88, as shown above. Additionally, dependent claim 95 recites that, “a user selects at least one avail for purchase in said inventory of avails.” No such selection process is described in Hendricks and it seems that the Examiner does not even address this dependent claim with any clarity that would allow Applicants to understand the rejection. In Hendricks, the advertiser simply submits ads to be scheduled by the above identified “break management engine” and the “spot placement engine”. The advertiser is not able to select “at least one avail

for purchased in said inventory of avails,” since selecting requires making a choice or an act of picking out. This deficiency is especially noticeable since Hendricks has not even created an inventory of avails from which to select avails. Therefore, dependent claim 95 offers additional patentable aspects and is allowable over Hendricks.

(f) Claim 99

Dependent claim 99 is patentable over Hendricks at least by virtue of its dependence on independent claim 88, as shown above. Additionally, dependent claim 99 recites that the “proposed price is dependent on said market segment selection.” With respect to dependent claim 99, Hendricks’ disclosure of different rates to different advertisers or staying within an advertiser’s budget, surely cannot be inferred to teach basing the price of avails on the market segment selection (“said proposed price is dependent on said market segment selection” as recited in claim 99). Applicants note that the market segment selection causes the selecting of specific addressable units and the avails associated with those units. Therefore, dependent claim 99 offers additional patentable aspects and is allowable over Hendricks.

(g) Claims 101-103

Independent claim 101 is patentable over Hendricks for similar reasons as independent claims 1 and 88. Additionally, Applicants note that the Examiner failed to address aspect (a), which recites, “receiving a programming selection from a user.” Hendricks does not receive a programming selection from a user and then obtain a listing of addressable units available to the user for the avails corresponding to the programming selection. For this reason and the reasons discussed above regarding the patentability of independent claims 1 and 88, independent claim 101 is patentable over Hendricks. Dependent claims 102 and 103 are patentable at least by their dependency on claim 101.

(h) Claim 104

Dependent claim 104 is patentable over Hendricks at least by virtue of its dependence on independent claim 101, as shown above. Additionally, Applicants note that Hendricks does not disclose that the “price for said avails is dependent on whether the addressable unit corresponding to an avail is within said market segment.” Similar to dependent claim 99, Hendricks’ disclosure of different rates to different advertisers or staying within an advertiser’s budget, surely cannot be inferred to teach basing the price of avails on whether an addressable unit is in a market segment. Therefore, claim 104 offers additional patentable distinctions over Hendricks and is allowable.

(i) Claims 105 and 107-112

Independent claim 105 is patentable over Hendricks, for similar reasons as independent claims 1, 88, and 101. Additionally, the Examiner seemingly ignores that claim 105 recites, “receiving a correlation selection from a user, wherein said correlation selection indicates the preference of said user to be presented with avails that correspond to said correlation selection.” Nowhere in Hendricks can the user enter a correlation selection representative of the desire of the user to be presented with corresponding avails and have a proposed price generated for those avails. Hendricks allows an advertiser to indicate targeting criteria for his advertisement, but not to indicate a correlation selection and be presented with corresponding avails (yet again noting that avails and advertisements are distinct). For this and the reasons discussed above, independent claim 105 is patentable over Hendricks. Dependent claims 107-112 are patentable at least by their dependency on claim 105.

(j) Claim 106

Dependent claim 106 is patentable over Hendricks at least by virtue of its dependence on independent claim 105, as shown above. Additionally, dependent claim 106 recites that the user may actuate the purchase of an avail. In Hendricks, the user may only submit his advertisement

for targeting and display, but there is no mechanism for affirmatively purchasing an avail. Therefore, dependent claim 106 offers additional patentable distinctions over Hendricks.

(k) Claim 113

Dependent claim 113 is patentable over Hendricks at least by virtue of its dependence on independent claim 1, as shown above. Additionally, dependent claim 113 recites “allowing a user to select for purchase a subset of the avails...” Hendricks simply does not allow a user to select a subset of avails for purchase. Therefore, dependent claim 113 offers additional patentable aspects and is allowable over Hendricks.

(2) Claim Rejection under § 103(a) over Hendricks in view of Hunter

(a) Claims 5, 14, and 15

The Examiner has rejected claims 5, 14, and 15 under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of U.S. Patent No. 6,424,998 to Hunter (“Hunter”). This rejection is in error.

As discussed above with respect to independent claims 1, 88, 101, and 105, Hendricks does not disclose all of the features of the independent claims. Hunter does not teach or suggest the element(s) missing from Hendricks. Therefore, even if the combination of Hendricks and Hunter is proper, such combination does not teach or suggest all of the features of independent claims 1, 88, 101, or 105. Accordingly, Applicants respectfully submit that independent claims 1, 88, 101, and 105 are allowable over the combination of Hendricks and Hunter. Therefore, dependent claim 5, 14, and 15 are allowable at least by their dependency on independent claim 1.

Conclusion

For the reasons set forth above, Applicants submit that the rejection of claims 1-21 and 85-113 is in error, and that the application, including claims 1-21 and 85-113 is in condition for allowance. Accordingly, Applicants respectfully request that the Board reverse the Examiner's rejections of claims 1-21 and 85-113 and remand this application for issue.

(H) CLAIMS APPENDIX.

The claims involved in this appeal, including amendments after final entered by the Examiner, are as follows:

1. A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising the steps of:

correlating available addressable units of the communications network with an avail inventory; and

generating a proposed price for purchase of at least one avail based on results of the correlating step.

2. The method of claim 1, further comprising:

storing addressable unit data pertaining to addressable units of the communications network, said data comprising information concerning characteristics of individuals associated with the addressable units;

receiving segment characteristics of a market segment from a user;

correlating the received segment characteristics with the stored addressable unit data; and

automatically identifying the available addressable units to be correlated with the avail inventory data as a result of performing the step for correlating the segment characteristics.

3. The method of claim 2, wherein the step of correlating the received segment characteristics includes:

storing geo-demographic data corresponding to geo-demographic characteristics of neighborhoods;

comparing the received segment characteristics with the stored geo-demographic data;

obtaining a list of indicators based on results of the comparing step, the indicators indicating geographic areas corresponding to the received segment characteristics; and

correlating the list of indicators with the addressable unit data to identify the available addressable units.

4. The method of claim 3, wherein, in the obtaining step, the indicators are zip code + 4 identifiers.

5. The method of claim 2, further comprising:

displaying a geographical map of the identified available addressable units.

6. The method of claim 1, wherein the correlating step includes:

storing content viewership data identifying materials or types of materials that viewers associated with the addressable units of the communications network are likely to view;

correlating the available addressable units with the stored content viewership data;

generating, based on results of this correlating step, a list of materials that viewers associated with the available addressable units are likely to view; and

identifying the at least one avail associated with the generated list of materials.

7. The method of claim 6, further comprising:

displaying the identified at least one avail to a user.

8. The method of claim 1, wherein the generating step includes:

receiving, from a user, price-setting parameters associated with the at least one avail; and

performing an avail pricing analysis based on the received price-setting parameters to generate the proposed price.

9. The method of claim 8, wherein, the price-setting parameters include at least one of the following: a size of addressable units and a number of avails.

10. The method of claim 8, wherein a subset of the available addressable units are selected by the user and a subset of the available avails are selected by the user, whereby the price-setting parameters are selected.

11. The method of claim 10, wherein the subset of the available addressable units is selected based on a geographical location of each of the available addressable units.

12. The method of claim 8, wherein the performing step includes:

evaluating price determining factors including the price-setting parameters received from the user; and

calculating the proposed price based on results of the evaluating step using avail pricing data.

13. The method of claim 12, wherein, in the evaluating step, the price determining factors further include at least one of the following: correlation indexes indicating the strengths of correlations, frequency of purchase by the user, promotional discounts, and scheduled presentation time for the available avails selected by the user.

14. The method of claim 1, further comprising:

displaying the generated proposed price on a display device.

15. The method of claim 14, wherein the display of the generated proposed price is overlaid on a display of the available addressable units.

16. The method of claim 1, further comprising:

receiving payment information from a user for purchasing the at least one avail according to the proposed price;

processing the received payment information; and

informing a result of the processing step to the user.

17. The method of claim 1, wherein the communications network is a television service network.

18. The method of claim 17, wherein the correlating step includes

storing program viewership data pertaining to programs or types of programs that viewers associated with the addressable units of the communications network are likely to view;

correlating the available addressable units with the stored program viewership data;

generating, based on results of this correlating step, a list of programs that viewers associated with the available addressable units are likely to view; and

identifying the at least one avail associated with the generated list of programs.

19. The method of claim 1, wherein the addressable units of the communications network are set top boxes assigned to subscribers of the communications network.

20. The method of claim 1, wherein the addressable units of the communications network are nodes on the communications network.

21. The method of claim 1, wherein the communications network is an Internet service network.

22-84. (canceled)

85. The method of claim 1, wherein a user selects at least one avail for purchase.

86. The method of claim 1, further comprising:

receiving a purchase request from a user for the purchase of said at least one avail.

87. The method of claim 1, wherein said generating of a proposed price occurs prior to selecting advertisements for said at least one avail.

88. A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

(a) receiving a market segment selection from a user;

(b) obtaining a record of segment specific addressable units available to said user, wherein said segment specific addressable units are characterized as belonging to said selected market segment;

(c) obtaining an inventory of avails corresponding to said segment specific addressable units; and

(d) generating a proposed price for avails in said inventory of avails.

89. The method of claim 88, wherein said price is dependent on a particular programming slot to which each avail corresponds.

90. The method of claim 89, wherein each programming slot corresponds to a program.

91. The method of claim 90, further comprising:

(e) determining the likelihood that a generic viewer in said market segment will watch said program to which each avail corresponds.

92. The method of claim 91, wherein said price is based on said viewing likelihood.

93. The method of claim 92, wherein said price is dependent on the time each programming slot occurs.

94. The method of claim 90, wherein said proposed price for each avail depends on the corresponding programming slot and the corresponding program.

95. The method of claim 88, wherein a user selects at least one avail for purchase in said inventory of avails.

96. The method of claim 88, further comprising:

(c) receiving a purchase request from a user for the purchase of at least one avail in said inventory of avails.

97. The method of claim 88, wherein said generating of a proposed price occurs prior to selecting an ads to be displayed in said avails of said inventory of avails.

98. The method of claim 88, wherein each avail corresponds to a particular programming slot.

99. The method of claim 88, wherein said proposed price is dependent on said market segment selection.

100. The method of claim 88, wherein said proposed price is dependent on the number of avails that said user purchases.

101. A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

- (a) receiving a programming selection from a user;
- (b) obtaining an inventory of avails corresponding to said programming selection;
- (c) obtaining a listing of addressable units available to said user for said avails corresponding to said program selection; and
- (d) generating a price for said avails corresponding to said program selection stored in said inventory of avails.

102. The method of claim 101, further comprising:

- (e) receiving a market segment from said user.

103. The method of claim 102, wherein said record of addressable units only includes those that are within said market segment.

104. The method of claim 102, wherein said price for said avails is dependent on whether the addressable unit corresponding to an avail is within said market segment.

105. A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising:

(a) receiving a correlation selection from a user, wherein said correlation selection indicates the preference of said user to be presented with avails that correspond to said correlation selection;

(b) obtaining an inventory of avails corresponding to said correlation selection;

(c) obtaining a listing of addressable units available to said user for said inventory of avails corresponding to said correlation selection;

(d) generating a proposed price for said avails corresponding to said correlation selection stored in said inventory of avails.

106. The method of claim 105, wherein a user may actuate the purchase of at least one avail.

107. The method of claim 105, further comprising:

receiving a purchase request from a user for the purchase of at least one avail.

108. The method of claim 105, wherein said generating of a proposed price occurs prior to selecting advertisements for said avails.

109. The method of claim 105, wherein said correlation selection is a particular program type.

110. The method of claim 105, wherein said correlation selection is a particular program.

111. The method of claim 105, wherein said correlation selection is a particular time slot.

112. The method of claim 105, wherein said correlation selection is a particular channel.

113. The method of claim 1, further comprising:

allowing a user to select for purchase a subset of the avails that result from the correlating, wherein the subset of the avails the user is allowed to purchase has not yet been purchased.

114. (cancelled)

(I) **EVIDENCE APPENDIX**

None.

(J) **RELATED PROCEEDINGS APPENDIX**

None.

Respectfully submitted,

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